

HB 1758 -- Rights of Persons with Parental Relationships

Sponsor: Long

This bill allows any person having a parent/child relationship with a minor child who is not the child's biological or legal parent to petition a court for an order establishing custody and visitation rights, regardless of whether both of the biological or legal parents are fit.

A petition may only be filed if at least one of the natural parents is deceased, at least one of the natural parents is unknown, the whereabouts of at least one of the natural parents is unknown and unascertainable, the parental rights of at least one biological parent have been terminated, or at least one of the natural parents has not had an ongoing parent/child relationship with the minor child in question prior to the filing of the petition.

The petitioner must establish by a preponderance of the evidence that an ongoing parent/child relationship exists or did exist. There will be a rebuttable presumption that the biological or legal parents act in the best interests of the minor child, and this presumption can be rebutted using the preponderance of the evidence or the clear and convincing evidence standard. If a court determines that a relationship exists between the minor child and the petitioner and the parental presumption has been rebutted, a court may grant a petitioner visitation or custody rights if it is in the child's best interests and the natural parent is unfit, unsuitable, or unable to be a custodian; the welfare of the child requires granting the custody or visitation rights; or the natural parent is listed in the Child Abuse and Neglect Central Registry. The bill prohibits the parental presumption from being used in any action to modify a judgment granted under these provisions.